

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 17.07.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.506 of 2006

Janaki ... Petitioner

vs.

1. The Secretary to Government,
Food and Consumer Protection Department,
Government of India, New Delhi.

2. The Secretary to Government,
Food and Consumer Protection Department,
Government of Tamil Nadu,
Fort St. George, Chennai 600 009.

3. The Commissioner of Police
Greater Chennai, Egmore,
Chennai 600 008.

... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a writ of habeas corpus to call for the records of the third respondent pertaining to the detention order made in No.1 of 2006 dated 19.04.2006 in detaining the detenu under the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (Central Act No.7 of 1980) as 'Black Marketer', quash the same, direct the respondents to produce detenu Chellappa, son of Arunachala Nadar, aged about 52 years, now detained at Central Prison, Chennai, before Court and set him at liberty.

For Petitioner : Mr.D.Veerasekaran

For R-2 & R-3 : Mr.M.Babu Muthu Meeran,
Addl. Public Prosecutor.

For R-1 : Mr.P.Kumaresan, Addl. Central
Govt. Standing Counsel.

O R D E R

P.SATHASIVAM, J.

The petitioner herein challenges the impugned order of detention, dated 19.04.2006, detaining her husband by name Chellappa as 'Black Marketer' under the provisions of the Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Act, 1980.

2. Heard Mr.D.Veerasekaran, learned Counsel for the petitioner; Mr.M.Babu Muthu Meeran, learned Additional Public Prosecutor for R-2 and R-3; and Mr.P.Kumaresan, learned Additional Central Government Standing Counsel for R-1.

3. At the foremost, Mr.D.Veerasekaran, learned counsel appearing for the petitioner submitted that the relevant documents were not supplied to the detenu within the prescribed period, but supplied only after 10 days, which prevented him from making an effective representation.

4. It is not in dispute that the detention order was passed by the Commissioner of Police/3rd respondent herein on 19.04.2006 and the same was served to the detenu on 20.04.2006. In para No.7 of the counter affidavit, the Commissioner of Police has specifically stated that the documents were served to the detenu on 21.04.2006 and that he was given sufficient time to send his representation to the Detaining Authority. It is also pointed out that the Government approved the detention order on 28.04.2006. Though it is claimed that the statement of one Vaithiyalingam was not supplied to the detenu, learned Additional Public Prosecutor has clarified by stating that the said Vaithiyalingam made confessional statement on 18.04.2006 and that the detention order came to be passed on 19.04.2006. It is not in dispute that all the relevant and relied upon documents were supplied to the detenu within the prescribed period. Therefore, we reject the contention raised by the learned counsel for the petitioner.

5. Learned counsel for the petitioner next contended that the representation dated 20.04.2006 was not placed before the Advisory Board. In the light of the said contention, we verified the proceedings of the Advisory Board. The file shows that the Advisory Board considered the entire materials including the representation of the detenu sent on various dates, heard the detenu in person, and, after being satisfied with the materials placed before it, found that there is sufficient cause for passing of the detention order. In view of the same, we find no merit in the said contention.

6. It is the grievance of the petitioner that the representation dated 28.04.2006 addressed to the Detaining Authority was not duly considered. The information furnished in the counter affidavit shows that the representation of the detenu's wife dated 28.04.2006, addressed to the Detaining Authority, was received on 09.05.2006, i.e., after approval of the detention order by the Government. Accordingly, the same was forwarded to the Government with remarks on 12.05.2006 and, after due deliberation, the same was rejected. Thus, there is no merit in the said contention also.

7. Learned counsel for the petitioner submitted that the representation dated 10.05.2006 was not considered. The said contention is also to be rejected in the light of the information furnished by the respondents. The representation dated 10.05.2006 was received by the Government on 15.05.2006; remarks were called for on the same day; and, on receipt of the remarks on 18.05.2006, File was submitted on 23.05.2006. It is brought to our notice that 20.05.2006 and 21.05.2006 were holidays. The file was dealt with by the Deputy Secretary on 23.05.2006. Thereafter, it was dealt with by the Secretary and Secretary (Law) on 24.05.2006. Finally, Minister for Food dealt with it and passed orders on 25.05.2006. Rejection letter was prepared on the same day, i.e., on 25.05.2006, sent to the Prison for service and served to the detenu on 27.05.2006. From the above information, it is clear that the representation dated 10.05.2006 was duly considered and disposed of without any undue delay, hence, we reject the said contention also.

8. Learned counsel for the petitioner next submitted that the representation, dated 10.05.2006, sent to the Government of India, was not considered.

In the counter affidavit filed by the Under Secretary, Department of Consumer Affairs, Food and Public Distribution, New Delhi, the deponent has specifically stated that the representation, dated 10.05.2006, stated to be made on behalf of the detenu, was not received in the concerned Section of the Department of Consumer Affairs of the Union Government. In the light of the solemn statement made by the Under Secretary, Department of Consumer Affairs, Government of India, the contention is liable to be rejected.

9. Learned counsel for the petitioner, by drawing our attention to the English version of the grounds of detention as well as the Tamil copy of the grounds of detention would contend that describing the name of the detenu in the Tamil Version of the grounds as Gunasekaran instead of Chellappa shows the non-application of mind on the part of the Detaining Authority, hence, the detention order is liable to be interfered with due to the defect in the translation.

10. Regarding the same, it is specifically stated in the counter affidavit, 'in the subjective satisfaction paragraph of the grounds of detention the name of the detenu is correctly stated and it cannot be stated that the order of detention is vitiated since in the Tamil copy of the grounds of detention in paragraph-2 the name of the detenu is wrongly typed'. Reference made to one Gunasekaran in the Tamil copy of the grounds of detention, according to the Detaining Authority, is only a typing mistake. We also verified the English and Tamil version of the grounds of detention. Except one place in the Tamil copy of the grounds of detention, in all other places, the name of the detenu has been correctly stated as Chellappa. We accept the explanation offered by the Detaining Authority in para No.13 of the counter affidavit and reject the contention of the learned counsel for the petitioner.

11. Learned counsel for the petitioner submitted that the State Government has not sent the report within 7 days to the Central Government as stipulated in Section 3(4) of the Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Act, 1980. We verified the original records produced by the learned Additional Public Prosecutor. We find that the relevant report had been sent to the Central Government within the prescribed time, hence, the said contention fails.

12. Finally, learned counsel for the petitioner submitted that the documents at page Nos.2, 6, 8, 10, 27, 28, 59, 60, 63, 64, 66 and 67 of the paper book are illegible, which prevented the detenu from making an effective representation. In the light of the said contention, we verified all those pages. As rightly pointed out by the learned Additional Public Prosecutor, they are all readable and legible. Further, it is not in dispute that, on the request of the detenu, another copy of those documents was served to the detenu even on 09.06.2006. That being so, we find no merit in the contention.

13. In the light of what is stated above, we do not find any valid ground for interference. Habeas Corpus Petition fails and the same is dismissed.

Jl.

Sd/
Asst.Registrar

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Sub Asst.Registrar

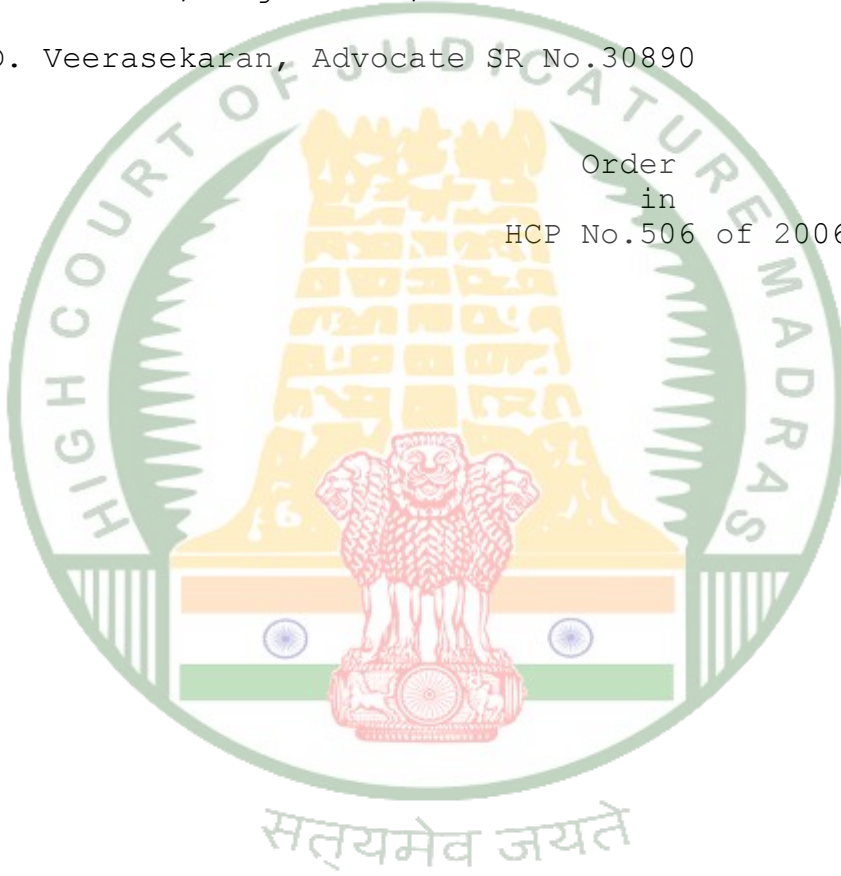
To

1. The Secretary to Government, Food and Consumer Protection Department, Government of India, New Delhi.
2. The Secretary to Government, Food and Consumer Protection Department, Government of Tamil Nadu, Fort St. George, Chennai 600 009.
3. The Commissioner of Police, Greater Chennai, Egmore, Chennai 600 008.
4. The Superintendent, Central Prison, Chennai.
5. The Public Prosecutor, High Court, Madras.

+ 1 cc to Mr. D. Veerasekaran, Advocate SR No.30890

PV(CO)
SR/26.7.2006

Order
in
HCP No.506 of 2006.



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